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450118-03186**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE SPECIFICATION, CLAIMS, AND FORMAL MATTERS

Claims 1-11 remain pending. Claims 1 and 7 are independent. Claims 1-3, 5 and 7-11 are amended to clarify the claimed invention and to obviate any ambiguity that might otherwise be present.

Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C., §101, §102, §103, or §112. Rather, these changes are made simply for clarification, as became evident from the Examiner's rejection based upon 35 USC 112, second paragraph. These amendments were not made earlier because, until the issuance of the Final Rejection here under reply, there was no need for such amendments. As is evident from the previous office action, the Examiner had no difficulty in understanding the subject matter defined by the claims. Accordingly, entry of this amendment is respectfully requested.

II. REJECTIONS

The entry of this amendment clarifies claim 1 and resolves the Examiner's query regarding the meaning of claim limitations recited therein. The rejection based upon 35 USC 112 should be withdrawn.

Claims 1-11 were rejected in view of U.S. Patent 6,772,340 (Peinado). Claims 1, 2 and 6-8 were rejected as being anticipated by Peinado and claims 3-5 and 9-11 were rejected as being

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obvious in view of Peinado. As will now be discussed, Peinado neither anticipates nor renders obvious any of the claims presented herein.

The present invention is directed to a transmitter (claims 1-6) and a transmission method (claims 7-11) that control the transmission of content signals to a receiver connected to the transmitter, depending upon whether that receiver is capable of copying the transmitted content. See paragraph [0001] of Applicants' published application (for convenience, references herein to Applicants' specification refer to the paragraphs numbered in the published application). In particular, a determination is made at the transmitter as to whether the connected receiver can operate with digital signals that are processed by encryption technology for copyright protection (see, for example, paragraph [0011]). The identities of those receivers that cannot copy content clearly, i.e. cannot copy content without degrading the quality of the copied content, are stored, or held, at the transmitter (see, for example, paragraph [0058]). Based upon this held information, the transmitter determines whether a connected receiver is operable to function in accordance with copyright protection encryption technology (see, for example, paragraph [0059]). If the content to be transmitted is not copyright protected, there is no need to encrypt it (see, for example, paragraph [0063]). If the connected receiver is included in the listing held at the transmitter, that is, if the connected receiver is not enabled to copy content, the content signal that is transmitted thereto is not copyright protected (see, for example, paragraphs [0067]-[0070]).

The foregoing features are recited in, for example, Applicants' claim 1, which recites, *inter alia*:

logic means for determining by an authentication process whether a connected receiver is operable to function in accordance with copyright protection encryption technology; and

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transmission controlling means for holding information indicating those receivers that are not enabled to copy content by using either the content signal or the copyright protected processed content signal and for controlling the signal transmitted by the transmitter according to whether or not information indicating the connected receiver is included in the held information, such that said non-copy protected content signal is transmitted if said connected receiver is not enabled to copy content.

It is respectfully submitted, Peinado does not teach or even remotely suggest the aforementioned features that are recited in Applicants' claim 1. Peinado describes a digital rights management (DRM) system that distributes encrypted content from a content server to a user that is licensed to "render" (i.e. use or copy) that content (col. 2, line 56 to col. 3, line 4 of Peinado). But, first, the user must possess or obtain a license to render that content (col. 3, lines 5-12, 20-25 and 57-67). However, the content is distributed in an encrypted form, freely and widely in packages 12p by content server 22 (col. 8, lines 34-37; col. 9, lines 58-67), leaving it to the user to decrypt only if he has a license (col. 5, lines 25-29) as recognized by the content server (col. 10, lines 4-18). It is the function of the license server 24 to determine if the user's computer can be trusted to honor a license and then to transmit a negotiated license, including the decryption key, to the user (col. 11, lines 41-50). If the user has the proper license, the encrypted content that has been transmitted to him can be opened, decrypted and (if the license so permits) copied. But, if the user does not have a license, he cannot decrypt the content that was transmitted to him from the content server and now resides on his computer (col. 14, lines 35-43). If, however, the content was not encrypted, the user may do with it as he wishes without the need for decryption (col. 14, line 66 to col. 15, line 4). It is important to recognize, whether or not unencrypted content is transmitted is dependent upon the author, not the capability of the user's device to copy that content. So, even if a user's device is capable of copying content, that

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content will be transmitted to him in unencrypted form, that is, it will be transmitted as a non-copy protected content signal, only if the author so wishes.

Comparing Peinado to, for example, Applicants' claim 1, there is no teaching in Peinado of holding, at content server 22 or license server 24, information of those receivers (or users) that are not enabled to copy content. Quite the opposite -- Peinado holds information of those users that have a license and, thus are enabled to copy content.

Still further, there is no teaching in Peinado of transmitting to a user a non-copy protected content signal if that user is not enabled to copy content. Indeed, the capability of the user's device is of no moment to Peinado. There is no transmission of a copyright protected content signal or a non-copy protected content signal depending upon the capability of the receiver that is connected to receive content. Whereas in the present invention a non-copy protected content signal is transmitted to a receiver that is not capable of copying that content, even if the content is copyright protected, Peinado clearly and unmistakably avoids and prevents such transmission. If Peinado's content is copyright protected, his content signal is not transmitted as a non-copy protected signal. Rather, it is essential in Peinado that a copyright protected content signal be transmitted, regardless of the capability of the user's receiver, if the content is copyright protected.

In view of this significant difference between Peinado and Applicants' claimed invention, the rejection of claim 1 should be withdrawn.

Claim 7 is directed to the method performed by the transmitter of claim 1 and recites the very same patentable features that distinguish claim 1 from Peinado. Therefore, for the reasons enumerated above, the rejection of claim 7 in view of Peinado should be withdrawn.

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Claims 2-6 depend from claim 1 and further define and limit the claimed invention. Therefore, since claims 2-6 include all of the limitations recited by claim 1, it follows that these dependent claims are patentably distinct over Peinado for those reasons discussed above. Moreover, claim 2 emphasizes that if the content is copyright protected, the transmitted signal is a copyright protected content signal unless the connected receiver is listed in the held information, whereupon the transmitted signal is a non-copy protected content signal even if the content is copyright protected. Claims 3 and 5 point out that if there is a change in the connected receiver while a non-copy protected content signal is being transmitted, continued transmission of that non-copy protected signal is stopped. Claim 4 points out how this change is detected, i.e. whether there is a change in the hot plug or the plug and play function of the receiver.

Claims 8-11 depend from claim 7 and further limit the invention defined by claim 7. Since claims 8-11 include all of the limitations recited by claim 7, it follows that these dependent claims are patentably distinct over Peinado for those reasons discussed above in connection with claims 1 and 7. Moreover, claims 8-11 are similar to claims 2-5, respectively, which have been described above. The differences between claims 8-11 and Peinado are, therefore, the same as the differences between claims 2-5 and Peinado. In the interest of brevity, these differences are not repeated here.

CONCLUSION

The claims are amended herein to clarify the subject matter defined thereby. Differences between the claims and Peinado are discussed in detail. In view of the foregoing, the rejections based upon Peinado should be withdrawn and claims 1-11, all the claims remaining in this application should be found in condition for allowance.

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In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in Peinado, it is respectfully requested that the Examiner specifically indicate those portions of Peinado providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Applicants respectfully submit that all of the claims are in condition for allowance and request early passage to issue of the present application.

Respectfully submitted,

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